

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

THOMAS DUANE STRAWDER
also known as James T. Hall,

Plaintiff,

vs.

STATE OF NEBRASKA, et al.,

Defendants.

4:16CV3161

**MEMORANDUM
AND ORDER**

This matter is before the court on Plaintiff's Motion to Dismiss ([Filing No. 47](#)), which the court liberally construes as a motion to voluntarily dismiss pursuant to [Federal Rule of Civil Procedure 41](#). [Rule 41\(a\)](#) states that a plaintiff may dismiss an action without a court order by filing "a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment." [Fed. R. Civ. P. 41\(a\)\(1\)\(A\)\(i\)](#). In addition, [Rule 41\(a\)\(2\)](#) provides that an action may be dismissed at the plaintiff's request "on terms that the court considers proper." [Fed. R. Civ. P. 41\(a\)\(2\)](#). Here, Plaintiff asks the court to dismiss this action and Defendants have not been served with process. Accordingly,

IT IS THEREFORE ORDERED that:

1. Plaintiff's request for dismissal of this action ([Filing No. 47](#)) is granted. Accordingly, this matter is dismissed without prejudice.
2. Plaintiff's Motion for Leave to File a Second Amended Complaint ([Filing No. 46](#)) is denied as moot.

2. A separate judgment will be entered in accordance with this Memorandum and Order.

Dated this 7th day of February, 2017.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge